

CHAPTER 1 – ORGANIZATIONAL STRUCTURE
ARTICLE 18 — LEGAL MATTERS

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14010.1 Policy

Appropriate legal representation and assistance shall be provided when the Department or its employees are subjected to legal proceedings.

Prompt action is required to resolve all legal matters because of time limits imposed by courts for responses in judicial proceedings.

14010.2 Purpose

This section establishes guidelines for the Department to follow when legal issues arise and describes how to use the Department's OLA and the AG's Office in any legal proceedings involving the Department and/or its employees.

14010.3 Definitions

Civil Action

An action brought to recover some civil right, or to obtain redress for a wrong, which is not a crime.

Complaint

A legal document setting forth the alleged charge or cause of action. It notifies the defendant that an alleged charge or cause of action has been filed.

Criminal Action

An action prosecuted by State or Federal agencies as a party against a person for the purpose of either preventing the commission of a crime, or for fixing the guilt for a crime already committed and punishing the offender.

Legal Process

As used in this section, legal process is a generic term that refers to all lawful proceedings and the documents used in those proceedings. This includes writs, applications for writs, summons and complaints, orders to show cause, etc. It does not include subpoenas as they are described separately.

Personal Service

The delivery of legal process to a party, either a person or the Department, or a designee authorized to receive such service.

Subpoena

A means of legal process compelling a witness to appear and give testimony at the time, date, and place specified.

Subpoena Duces Tecum

A means of legal process compelling the keeper of a record, document, or file to make the record, document, or file available for examination at the time, date and place specified.

Substituted Service

The delivery of legal process by any legal means other than personal service.

Summons

A legal document which, when properly served, gives the court jurisdiction over a defendant, and orders a defendant to appear in court at the time, date and place specified to answer a complaint.

Writ

A written order issued by a court, commanding the party to whom it is addressed to perform or cease performing some specified act. A party seeking a writ must file a petition for a writ before the court can issue the writ. A petition for a writ is frequently, but inappropriately, referred to as a writ.

14010.4 Types of Litigation

Litigation may involve criminal charges against a party or it may be seeking to correct some civil wrong. Generally, the Department and/or its employees become involved in judicial proceedings for one or more of the following reasons:

- An inmate is participating in litigation, which may or may not name the Department as a party. This may involve:
 - An active case in which the inmate is a party.
 - An active case in which the inmate is needed as a witness.
 - A recently filed case in which the inmate must be served as a party.
- The Department and/or its employees have been named as parties in a case arising from departmental activities.
- An employee has been named as a party in a case, which arises from the employee's duties with the Department.
- A party to a case requires some information in the possession of the Department or its employees, such as:
 - The testimony of an employee who observed an event (a percipient witness).
 - The testimony of an employee who has some expertise in a particular field but no direct knowledge of the event which is the subject of the case (an expert witness).
 - A record in possession of the Department or an employee.

Anytime the Department becomes involved in legal proceedings, the AG's Office acts as the attorney for the Department and/or its employees and represents the Department and its employees in court except when:

- The AG's Office authorizes the Department to hire outside counsel.
- The AG's Office asks a DA to represent the Department in a particular matter.
- The action is filed in small claims court as discussed in the DOM 14010.8.

14010.5 Notice to OLA

Anytime the Department, Secretary, Undersecretary, Chief Deputy Secretary, Assistant Secretary, Director, Warden, or RPA is named in a legal action, a copy of the summons and complaint or legal process shall be immediately forwarded to the OLA and the appropriate AG's Office by Correctional Case Records Administration (CCRA), the Litigation Coordinator, or the Correctional Case Records Manager (CCRM). Multiple copies on the same suit are not required.

Copies of all petitions for writs shall be forwarded to the OLA at the same time they are sent to the AG's Office.

14010.6 Subpoenas — in General

All employees of the Department are subject to being subpoenaed concerning actions arising from their employment with the Department.

Any employee subpoenaed in any action regarding an event or transaction which the employee perceived or investigated in the course of the employee's duties, or as an expert witness, shall immediately notify their supervisor of the time, date, location, and case upon which the employee must appear.

A person who fails to obey a subpoena, which is properly served, can be held in contempt of court. Employees shall appear in court, pursuant to a subpoena, unless they are directed not to appear by one of the following:

- The person issuing the subpoena.
- A representative of the AG's Office assigned to the case.
- An attorney from the OLA.
- A Litigation Coordinator working on the case in which the employee is subpoenaed.

When a subpoena is received, it is absolutely imperative that it is processed as quickly as possible to the appropriate unit. (See DOM 14010.6.9.)

14010.6.1 Subpoenas — Criminal

Criminal subpoenas may be issued by any of the following:

- A magistrate before whom a complaint is filed or the magistrate's clerk.
- A DA, a deputy DA, or the attorney's investigator.
- The defense attorney of record or the attorney's investigator.
- A judge in support of a complaint or an indictment.
- A judge acting at the request of a grand jury.
- Defendants acting in their own behalf (in pro per) or their investigator in a filed legal action.

No person is obliged under a criminal subpoena to attend as a witness before a court that is out of the county where the witness resides or is served with the subpoena unless:

- The distance is less than 150 miles from the employee's residence to the place of trial, or
- The subpoena is endorsed by:
 - The judge of the court in which the offense is triable.
 - A judge of the Superior Court.
 - A justice of the Supreme Court.

14010.6.2 Subpoenas — Civil

Civil subpoenas may be issued by a variety of jurisdictions and they compel either the production of a document or the attendance of a witness when the witness is a resident of the State at the time of service. Civil subpoenas are signed in blank by the issuing court and they are completed by the party seeking to examine the witness or document.

14010.6.3 Subpoenas — Who Can Accept Service

Not all employees are legally authorized to accept service of a subpoena on behalf of the Secretary, another employee, or an inmate.

Only employees who are authorized in writing to accept service of a subpoena for another, except as noted under DOM 14010.6.5.2, shall accept such service on behalf of another person.

14010.6.4 Subpoenas — Designating an Agent to Accept Service

Any employee of the Department may designate in writing another employee as their agent to accept service of a subpoena in legal matters related to the employee's work with the Department. No personal service of a subpoena shall be accepted for another person without written authorization from that person.

The designation of an agent to receive service under this section authorizes that agent to receive service of legal process discussed later in this section (see DOM 14010.7.2).

Any employee for whom service of a subpoena has been accepted shall immediately be notified and given a copy of the legal documents.

The transfer, resignation, or retirement of either the person authorizing another to accept service or the designee shall automatically revoke the authorization to accept service.

14010.6.5 Subpoenas — Types of Service

Subpoenas may be received by personal service in civil cases and by either personal service or substituted service in criminal cases.

14010.6.5.1 Subpoenas — Personal Service

Personal service implies giving the subpoena to the person to whom it is addressed. If the person to whom the subpoena is addressed has designated an agent in writing to accept service of subpoenas, service of a subpoena upon that person is the same as personal service upon the person to whom the subpoena is addressed. Personal service is permitted in all cases.

14010.6.5.2 Subpoenas — Substituted Service

Substituted service is the delivery of a subpoena to the person to whom it is addressed by any method other than personal service. Substituted service is not permitted in civil matters but is permitted in criminal matters.

Substituted service of criminal subpoenas may be accomplished by the delivery of the subpoena by any of the following:

- USPS.
- Messenger.
- Delivery to the immediate supervisor of an officer.

Service given to an officer's immediate supervisor requires the delivery of two (2) copies to the supervisor. Substituted service upon the immediate supervisor may be refused, or returned, by the immediate supervisor as specified in DOM 14010.6.7 and 14010.6.8.

- For the purpose of this discussion, reference to the officer's immediate supervisor includes an authorized designee of the supervisor.

14010.6.6 Subpoenas — Accepting Substituted Service

Substituted service of a subpoena is effected only when the person to whom it is addressed acknowledges receipt of the subpoena. Acknowledgement of substituted service shall not be made without first checking with the OLA, unless the subpoena is for the prosecution of an in prison offense. Acknowledgement is made by telephone, mail, or in person, as directed on the subpoena.

Although substituted service is not completed until acknowledged by the person to whom it is addressed, an employee failing to acknowledge substituted service may be required, by the court, to pay the cost of undertaking another means of service.

A subpoena delivered by substituted service has the same force and effect as a subpoena received by personal service, once it is received and acknowledged.

An officer's immediate supervisor who accepts substituted service shall ensure delivery of the subpoena to the officer as soon as possible, but in no event later than such time as shall enable the officer to comply with the subpoena.

When substituted service for an officer is tendered to an immediate supervisor, the superior shall insure that:

- The addressee is an officer and that the supervisor is, in fact, the addressed person's immediate supervisor.
- Sufficient time remains to accomplish delivery of the subpoena to the officer.
- The supervisor can reasonably expect to deliver the subpoena to the officer in sufficient time to permit the officer to comply with the subpoena (taking into account regular days off and holidays for both the supervisor and the officer).

14010.6.7 Subpoenas — Refusing Substituted Service

When an immediate supervisor is tendered service of a subpoena for an officer less than five (5) days prior to the date of the scheduled appearance, and/or the supervisor is not reasonably certain they can complete service to the officer in sufficient time for the officer to comply with the subpoena, the supervisor may refuse to accept service of the subpoena. The supervisor shall notify the server of the reason for the refusal at the time service is being attempted.

14010.6.8 Subpoenas — Inability to Complete Substituted Service

Where an immediate supervisor has accepted substituted service of a subpoena for an officer, and it is subsequently determined that delivery to the officer is not reasonably possible within time to allow the officer to comply, the immediate supervisor shall notify the server, or the server's office (not less than 48 hours prior to the hearing date specified on the subpoena) that service can not be completed. No legal

penalty shall arise in connection with compliance with this procedure. First, however, all reasonable attempts to complete service shall have been made.

14010.6.9 Subpoenas — Instructions to Subpoenaed Employees

The OLA shall immediately be notified when:

- An authorized employee receives a subpoena for the Secretary, Undersecretary, Chief Deputy Secretary, Assistant Secretary, or Director.
- There is a need to quash a subpoena.
- The affected employee or the litigation coordinator believes the subpoena was not properly served.

The OLA shall provide directions on how to proceed.

Local litigation coordinators, CCRM's, or a CCRA shall immediately contact the AG's Office if the subpoena is connected to a case in which the AG's Office is representing the State, the Department, or an employee.

The procedure for referrals to the AG's Office is covered under DOM 14010.6.11.

Within one week of sending the transmittal letter to the AG's Office, case records personnel shall ensure that the employee, on whose behalf service had been accepted, has signed and forwarded to the AG's Office a Request for Representation.

When an employee receives a subpoena (other than as outlined above), there is no need to notify the OLA, unless there are reasons to attempt to quash the subpoena.

Anytime an employee is served with, or otherwise receives, a subpoena arising from employment with the Department, the employee shall:

- Contact the litigation coordinator, the CCRM or CCRA.
- Complete a Request for Representation, unless a request has previously been filed for the specific case.

Employees consulting or testifying as a specialist or an expert witness, based on experience gained in the course of their employment with the Department, should first review Department regulations governing incompatible activities, CCR Section 3413(a)(10).

Retired employees shall contact the appropriate staff person at their former institution, region, office, or the OLA.

14010.6.10 Subpoenas — Requests to Disclose Information

When an employee is requested to disclose information by any party to a lawsuit, either informally or by service of a subpoena, the employee shall consider the following:

- Information from public records shall only be disclosed in accordance with DOM 13040.
- Information from employee and inmate files shall only be disclosed in accordance with DOM 13030 and 13040.
- Only the documents specifically named shall be disclosed.

14010.6.10.1 Subpoenas — Non-Peace Officer Personnel Records

Response to a subpoena for information from non-peace officer personnel records shall be as follows:

- Provide the information if:
 - Employee consents in writing to the disclosure of the information; or
 - Disclosure is permissible as a public record or as non-exempt personal information (see DOM 13030 and 13040).
- Contact the OLA if:
 - Employee does not consent in writing to the disclosure of the information; and
 - Exempt personnel information is requested.

In civil actions in which the Department is not involved, and where only payroll or medical records are requested, a subpoena for non-peace officer records shall be complied with. No appearance shall be made

on behalf of the Department to oppose a motion for non-peace officer records. Disclosure shall be made upon receipt of the subpoena.

Before disclosure, the Department shall reasonably attempt to notify the individual to whom the record pertains.

Disclosure of personnel records without a subpoena, or the employee's written consent, shall only be made to an attorney representing the Department's interest, as in worker's compensation matters when defending the Department or its employees, or in adverse personnel actions.

14010.6.10.2 Subpoenas — Peace Officer Personnel Records

Peace officer personnel files are considered confidential under PC 832.7 and 832.8. Disclosure shall occur only if:

- The employee consents in writing to the disclosure, or
- A subpoena is issued by a DA for the limited purpose of enforcing child support obligations; or
- The Department is served notice more than ten days in advance of a hearing on a motion for hearing held under EC 1043 and 1046. At the hearing, the court, not the Department, would determine if the record is to be disclosed.

Motions made to obtain information from peace officer personnel files shall be handled in accordance with the following:

- Upon receipt of a subpoena or notice that a motion has been requested, the employee whose records are being sought shall be sent a written notice mailed to the employee's last known address that a hearing is being scheduled to determine whether information in the employee's file is to be disclosed.
- All subpoenas in criminal and civil actions requesting peace officer records, other than those noted above shall be referred to the AG's Office.

An attorney serving a subpoena for peace officer personnel records shall be informed of the provisions of PC 832.7 and 832.8.

14010.6.10.3 Subpoenas — Inmate/ Parolee Records

Subpoenas for inmate/parolee records shall always be referred to the AG's Office except under the following circumstances:

- The subpoena was issued by the inmate's/parolee's own attorney.
 - The attorney shall be informed that the inmate's/parolee's written consent is required for the attorney to review the record.
 - If the attorney is unwilling to fulfill this requirement, the matter shall be referred to the Department's OLA.
- Inmate/parolee medical records are sought in a civil action, not involving the Department, where the inmate/parolee is a party.
 - Notice shall be given to the inmate/parolee prior to disclosure.

14010.6.10.4 Subpoenas — Other Records

Subpoenas for public records such as a copy of non-confidential operating manuals shall be handled by informing the person issuing the subpoena of the method to secure public records as outlined in DOM 13040.

Subpoenas for other records such as copies of incident reports or confidential procedures shall immediately be referred to the AG's Office.

14010.6.11 Subpoenas — Referral to the Attorney General

Subpoenas shall be referred to the appropriate AG's Office (see DOM 14010.13) under the following circumstances:

- When issued to an employee because of their participation in, or preparation of, a diagnostic study under PC 1203.03 or 1170 (d).

- When an employee is subpoenaed to give an expert opinion (that is, the employee has some expertise in a particular field) in a case in which the employee has no direct knowledge of the event that is the subject of the case and an expert witness fee has not been tendered.
- When served at a time which is unreasonably close to the date on which the appearance is required.

A subpoena referral shall not be made to the AG's Office if:

- The employee who has been served is willing to appear at the employee's own expense, on the employee's own time; and
- The Warden, RPA, or division head authorizes the employee vacation time off to make the appearance.

14010.6.12 Subpoenas — Contacting the Issuing Attorney

The subpoenaed employee shall not make direct contact with an attorney issuing a subpoena unless directed to do so by the OLA. In any case where the employee was not a percipient witness, or lacks any relevant information concerning the event, the employee shall make direct telephonic contact with the OLA. The OLA shall make attempts to have the subpoena withdrawn by the attorney who issued it.

14010.6.13 Subpoenas — Failure to Comply

Failure to comply with any legal subpoena can result in contempt charges and sanctions (fines and/or imprisonment) by the court which issued the subpoena. Employees shall make every reasonable effort to comply with subpoenas.

14010.7 Legal Process — In General

Service of any documents used in civil proceedings (except subpoenas) is referred to as service of legal process in this section. The documents shall be handled in accordance with the provisions of this section anytime an employee receives such service.

14010.7.1 Legal Process — Who Can Accept Service

Only the following Headquarters staff shall accept service of legal process for the Department:

- Designated staff of OLA.
- The Chief, Correctional Case Records Services.
- CCRA's in Case Records Services.
- The CCRM, LPU.

14010.7.2 Legal Process — Designating an Agent to Accept Service

Each Warden and RPA shall designate an employee to accept service of process on behalf of the institution or region.

Designating an agent to receive service is accomplished in the same manner as described in DOM 14010.6.4.

14010.7.3 Legal Process — Types of Service

Service of legal process may be by personal service or by substituted service. Note that unlike the service of a subpoena in a civil matter, service of legal process in a civil matter may be accomplished by substituted service.

14010.7.3.1 Legal Process — Personal Service

Personal service is accomplished by delivering the legal process to the defendant in person, or to an agent designated by the defendant, in writing, to accept service of legal process on their behalf.

14010.7.3.2 Legal Process — Substituted Service

Substituted service is accomplished in any of the following ways:

- Leaving a copy of the legal process at the defendant's residence with a person over 18 years of age and, thereafter, mailing a copy to the defendant at the same address.

- Leaving a copy at the defendant's place of employment with a person in charge (this may be the officer on duty at the front gate or public entrance) and, thereafter, mailing a copy to the defendant at the place of employment.
- Sending the legal process to the person by mail, but this must include an acknowledgement of service. This is the method most commonly used by the U. S. Marshall for service of federal civil rights actions.

14010.7.3.3 Legal Process — Acknowledgement of Service by Mail

The acknowledgement shall not be signed or dated by the person receiving it. The acknowledgement shall be transmitted to the AG's Office with the legal process as provided in DOM 14010.7.6.

14010.7.4 Legal Process — Service Upon Inmates

No charge shall be made for the serving of legal papers on inmates by departmental staff. This shall preclude process servers from direct access to security areas of the institutions. This shall not preclude the proper service of papers by a sworn peace officer escorted into a security area.

Service may be completed as follows:

- Staff may accept the papers from the process server and then complete the service on the inmate.
- A sworn peace officer may be escorted into the security area to complete the service of papers.
- A non-sworn process server may be permitted to complete personal service if:
 - The server desires to make personal service and has made prior arrangements.
 - The inmate can reasonably be brought to the visiting area.
 - Permitting the personal service does not compromise the institution security.
- If a request for service is received by mail, institution staff shall serve the papers and complete the verification of service. If a fee accompanied the request for service, the fee shall be returned with the verification of service.

14010.7.5 Legal Process — Handling

Upon receipt of legal process, the employee served shall forward the document to the person designated by the Warden or RPA (normally the litigation coordinator or the case records staff).

Headquarters staff shall forward such documents to the OLA or the Case Records Office.

The employee served shall furnish the following information:

- Date of service.
- Place of service.
- Name, or title, of the person who served the documents.
- Method of service.

All employees shall receive training to ensure they are familiar with this process, and they shall be given written instructions in the format shown in.

Headquarters, each institution and each parole region shall process substituted service for an employee as follows:

- A process server who indicates they are leaving substituted service shall be allowed to leave it with an employee most convenient (such as the front gate or the receptionist) for Headquarters, the institution, the parole region or field office. The legal process may be placed in the office mail system for delivery to the employee if there is a reasonable assurance service shall be completed in a timely manner, or it shall be delivered in person to the employee.
- If the legal process is job related the employee to whom service is addressed may request representation at State expense or at the employee's expense as provided in DOM 14010.14.

14010.7.6 Legal Process — Transmittal to the Attorney General

Upon receipt of legal process and information concerning service, the litigation coordinator or case records staff shall prepare a transmittal letter to the assistant AG serving the court (see DOM 14010.13)

which issued the documents. The appropriate assistant AG shall be contacted by telephone when it appears some action needs to be taken immediately or when a written referral will not give the AG's Office sufficient time to respond.

The transmittal letter shall contain the following information:

- The name of the employee served and for whom service was accepted.
- The method of service: personal delivery, mail, etc.
- The date and place of service.
- The name, or title, of the person who served the documents.
- A request for representation on behalf of the person named in the documents.

The employee on whose behalf service was accepted shall be given a copy of the transmittal letter and any other documents they had not previously been given.

14010.8 Small Claims Court

On occasion, an employee is served with a claim filed in small claims court against the Department, or against the employee arising from their employment with the Department. As attorney representation is not permitted in small claims court, neither the AG's Office nor any other attorney may appear to represent the Department or the employee. The employee served shall immediately contact the individual designated for processing legal documents as described in DOM 14010.7.5 and then provide that individual with a copy of the claim.

The Warden, RPA, Assistant Secretary, or their designee, shall write a letter to the clerk of the court in which the claim was filed, requesting that the claim be dismissed when either, or both, of the following appears to be true:

- The claimant failed to exhaust all administrative remedies.
- The claimant failed to file a California Victim Compensation and Government Claims Board (CVCGCB) claim.

Copies of the letter shall be sent to the OLA and the claimant/plaintiff.

If the claimant exhausted administrative remedies and filed a CVCGCB claim prior to filing the action, or if the court refuses to grant the request to dismiss, the Warden, RPA, Director, Assistant Secretary, Chief Deputy Secretary, Undersecretary, Secretary, or their designee (either the employee served or another staff member with relevant knowledge of the issue before the court), shall appear at the hearing to present the Department's response to the claimant's allegations.

Court Ruling

If the court rules in favor of the claimant, the defendant (the Department and/or the employee) has the right to appeal the finding to the Superior Court. The AG's Office shall represent the Department or the employee. Prior to deciding whether to appeal, the Warden, RPA, Director, Assistant Secretary, Chief Deputy Secretary, Undersecretary, Secretary, or their designee, shall contact the OLA. If the decision is made not to appeal, the person who appeared in court shall be required to obtain a copy of the order to justify payment of the claim.

14010.9 Not Reporting Home Address During Testimony

An officer may give the place of employment, rather than the actual residence location, in the following circumstances:

- Testimony is being given in a criminal proceeding.
- Testimony is likely to become a matter of public record.
- The testimony concerns an event or transaction the employee perceived or investigated in the course of employment with the Department.

14010.10 Transfer of Original Documents

Original documents shall not be transferred to the custody of a deputy AG, or anyone outside the Department, without the consent of the Assistant Secretary, OLA, or the Chief, Correctional Case Records Services.

14010.11 Cooperation with the Attorney General

Departmental employees shall cooperate fully with the AG's staff who are representing the Department, or a departmental employee, in any legal action.

Cooperation shall include, but not be limited to:

- Producing documents.
- Completing interrogatories.
- Researching matters within the Department.
- Appearing as a witness, when required.

If it is felt that requests by the AG's Office have become excessive, the litigation coordinator or the section chief in units without identified litigation coordinators shall contact the OLA, which shall attempt to mediate the conflict between the Department and the AG's Office.

Attorney General's Obligation

When the AG's Office represents an employee of the Department, the AG's Office is obligated to maintain the same attorney-client privilege regarding any communications with that employee as if the employee had retained private counsel.

Employees with information relevant to any litigation involving the Department should channel the information to the AG's Office through the litigation coordinator or the section chief in units without identified litigation coordinators. If there is any question about whether or not the information should be communicated to the AG's Office, the OLA shall be consulted.

14010.12 Contacting the Attorney General

Employees shall initiate contact with the AG's Office only under the following circumstances:

- As directed by this section.
- When instructed by the OLA.
- When assigned to assist in preparation of a specific case.
- When the employee is personally represented by the AG's Office in a legal action.
- When the Department seeks an ex parte order blocking disclosure of exempt personal information.

14010.13 Attorney General Assignments

The following AG's Offices have been assigned to represent the Department in the various courts as shown:

AG's Office	Federal District Courts	Calif. Appeals Courts	Counties	Parole Regions
Los Angeles	Central	2 nd	Inyo, Kern*, Los Angeles, Orange, Santa Barbara, San Bernardino, San Luis Obispo, Ventura	III and parts of IV
Sacramento	Eastern	3 rd & 5 th	Alpine, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings*, Lassen, Madera, Mariposa, Merced,	I

			Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba	
San Diego	Southern	4 th	Imperial, Riverside, San Diego	IV
San Francisco	Northern	1 st & 6 th	Alameda, Contra Costa Del Norte, Humbolt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma	II and parts of I

*The AG's Office in San Francisco will handle state habeas corpus matters arising from CCI; California State Prison, Avenal; and California State Prison, Corcoran.

14010.14 Employee's Right to Obtain Private Counsel

In job related actions any employee has the right to be represented, at their personal expense, by the attorney of the employee's choice rather than by the AG's Office. Where it is determined that the Department shall provide defense counsel, and the employee does not wish to provide counsel at their own expense, the Department shall have the AG's Office, or private counsel (in cases where the AG's Office has a conflict of interest), represent the employee at Department expense.

14010.15 Requests to Settle Litigation

All settlement requests shall be in writing. They shall be submitted to the Secretary or the Undersecretary through the Assistant Secretary, OLA. Prior to settling any legal action, the following guidelines shall be followed:

- Settlements involving policy or procedural changes shall be approved by the appropriate division head, the Assistant Secretary, OLA, and, when necessary, the Secretary or the Undersecretary.
- The Secretary or the Undersecretary shall approve money settlements.

14010.16 Policy Changes Because of Litigation

The Secretary establishes departmental regulations and policy. No changes will be allowed without the consent of the Secretary or members of the Secretary's staff who have been authorized by the Secretary to establish or modify regulations and policy.

The approval of the Assistant Secretary, OLA, is required for any regulation, policy, or procedural change based upon a court decision. Consultation with the Department's OLA, appropriate division heads, and the Secretary is required before any regulatory, operational, or policy changes are made in response to the instructions or advice of:

- The AG's Office.
- A DA's office.
- Any other attorney representing the Department or its employees.

Note: Further information is contained in DOM 12010, Policy Directives.

The litigation coordinator shall notify the AG's Office and OLA if a specific case involves broad policy implications for the Department. When a question arises as to which unit (the OLA or the AG's Office)

shall have primary responsibility for handling a case, the inquiry shall be directed to the OLA who shall make the determination.

14010.17 Designating Litigation Coordinators

The Department shall provide litigation assistance to the AG's Office. To best accomplish this, each facility and parole region shall designate a staff member to act as the Litigation Coordinator. The Litigation Coordinator shall be the contact person for departmental staff or the AG's Office, either on a continuing basis or upon request on an individual case. The OLA shall be informed of the Litigation Coordinator for each case and all changes or replacements as they occur.

Responsibility

The Litigation Coordinator shall:

- Establish a system to coordinate, control, and process all legal documents.
- Schedule legal planning sessions between facility, parole region, and the AG's Correctional Law Section (CLS) for responding to ongoing litigation and finalized court decisions.
- Monitor due dates on all legal matters in order to ensure facility and staff compliance with those dates.
- Upon request of CLS, identify appropriate expert(s) on specific issues in litigation.
- Compile, review, and evaluate all records and documents related to matters in litigation to ensure uniformity and compliance in facility responses.
- Provide necessary documentation for CLS and disseminate documents to staff, inmates, or inmate attorneys when directed.
- Prepare responses to discovery requests and/or other documentation required during litigation.
- Receive, file, and prepare initial documentation for CLS on all cases instituted by inmates.
- Coordinate security for maximum-security inmates who testify in either criminal or civil proceedings.
- Identify areas of potential or recurring litigation for possible facility action.
- Coordinate with CLS to provide for briefings of the Warden or RPA and administrative staff on the status and content of pending litigation, including the potential impact of that litigation on prison/parole region administration and operational procedures.
- With direct guidance from CLS, provide IST for management and line staff on operational changes dictated by recent specific court orders, litigation, statutes, or general new case law.
- Provide IST to staff on their role and responsibility as a party or witness in litigation.
- Act as in-court trial investigator and source for necessary immediate facility information, during trial, and for the attorney representing a staff member concerning any correctional interest at issue.
- Assist staff members during their legal contacts with the court, inmate, inmate attorney, or attorney representing staff.
- Review confidential records and files to be used in litigation in order to protect confidential matters not at issue or not relevant to individual litigation.
- Provide budget planning information by determining costs of litigation because of lost staff time, overtime, travel, etc., and costs of implementing finalized court decisions.
- Provide information to CLS on the facility's/parole region's compliance in procedural or policy concerns.
- Ensure improvement in CLS responses to facility contacts by the courts and attorneys where appropriate (particularly when court makes requests of the facility).
- Schedule staff meetings or staff interviews for CLS and coordinate CLS contacts with the facility.
- With input from CLS, where appropriate, make recommendations to the Warden or RPA for implementation of procedural changes necessitated by prison litigation or court orders.

14010.18 Civil Rights of Inmates

Under federal statute, the U.S. AG's Office may investigate complaints that incarcerated persons are being deprived of their federal constitutional rights.

If such an investigation is started based on an inmate/parolee complaint, an affected employee may request representation by the State AG's Office.

Request for representation shall be made in writing.

14010.19 Inmate Access to Court

State and federal law guarantees inmates access to the courts to litigate issues. An inmate may bring a lawsuit or be sued, like any other person.

No inmate shall be disciplined or punished in any way for instituting or maintaining a lawsuit. Sanctions shall only be imposed by the courts, not by departmental employees, if an inmate uses or abuses the right of access to the courts.

14010.19.1 Filing Fee for Inmates to Initiate State Civil Actions

Statute and regulations require the Secretary to collect a \$3.00 filing fee, separate from any other fees required from the court, for each state civil action initiated by inmates while incarcerated with the Department. Civil actions are defined as non-criminal.

The fee is to be charged to the inmate's trust fund. Inmates shall fill out a CDC Form 193, Trust Account Withdrawal Order, specifically identifying the purpose of the withdrawal, the parties associated with the action, and the court where the filing is to be sent. The CDC Form 193 shall be processed in the trust office, marked "PAID," and signed by the trust staff deducting the \$3.00 filing fee from the trust account. If the inmate trust account does not have \$3.00 available to pay the filing fee, the CDC Form 193 shall be marked "NSF" to reflect that funds were not available to pay the filing fee.

Inmates shall not handle completed CDC Forms 193. After the CDC Form 193 has been marked "PAID" or "NSF," it shall be provided to a designated staff member, who shall place it in the package in accordance with current legal mail procedures, prior to sealing and initialing of the envelope.

14010.20 Staff Assistance to Inmates

Employees shall not assist an inmate/parolee in the preparation of any legal document except as provided in the CCR 3160, for inmates/parolees who are illiterate or physically incapable. Employees shall not give any form of legal advice. Employees are permitted to help inmates/parolees find qualified assistance for their legal problems, but only through referrals to the California Bar Association, the local county bar associations, or a local attorney referral service listed in the telephone yellow pages. Referrals to specific attorneys are prohibited.

14010.21 Legal Copying Services

Copy service is provided as a convenience for inmates in preparing legal documents. The number of copies required by applicable court rules to be filed with the courts and to be served on all parties and other persons in the litigation shall be provided. Other persons may include the AG's Office, the inmate's attorney, and the Secretary's Office. The inmate shall be provided with one extra copy of the document for his or her own records. One additional copy of a petition for a writ of habeas corpus filed in State court shall be provided to the inmate for mailing to the appropriate DA.

Printed forms required by State and federal courts, which are made available by the courts to the Department, shall be provided without charge to inmates.

Inmates shall be required to pay for necessary duplication of printed forms and other written or typed materials, special paper, envelopes, and postage for mailing to the courts, except these items shall be provided at no charge to an indigent inmate as described in CCR 3162 and 3165(d).

14010.21.1 Abuse of Legal Copying Services

Copy service shall be restricted when:

- An inmate abuses the service to the extent that other inmates are deprived of such service or
- An unnecessary expense to the State results.

Authority to restrict copy service shall not be delegated below the level of Captain. Reasons for the restriction of service shall be documented by using a CDC Form 128-B, General Chrono.

14010.21.2 Legal Documents

The following are considered legal documents for the purpose of providing copy service to inmates:

- Writs--habeas corpus, mandate, etc.
- Civil rights complaints.
- Civil complaints or answers.
- Petitions for hearings in appellate courts.
- Motions to proceed "in forma pauperis" (without funds to hire counsel).
- Exhibits, including slip opinions of the California Court of Appeals, when attached to petitions for hearing in the State Supreme Court.

14010.21.3 Non-legal Documents

The following are considered non-legal documents for the purpose of providing copy service to inmates:

- Law book pages.
- Law review articles.
- Court transcripts.
- Correspondence with attorneys or public officials.
- Slip opinions, except as noted above.

Inmates shall be charged for copies of these documents.

14010.21.4 Size and Number of Copies for Court Documents

The number of copies required by the courts of the following documents is:

Court	Writs of Habeas Corpus	Appeals & Certiorari Petitions	Hearings and Other Writs	Exhibits
U.S. Supreme Court	Original and Appendix (a)	Original and 8 Copies	—	Original
U.S. Court of Appeals	Original and 3 Copies	Original and 15 Copies ^(b)	—	Original and 3 Copies
U.S. District Courts	Original and 3 Copies	—	—	Original and 3 Copies
State Supreme Court	Original and 14 Copies	Original and 14 Copies	Original and 14 Copies	Original and 1 Copy
State Court of Appeals	Original and 3 Copies	Original and 3 Copies	Original and 3 Copies	Original and 1 Copy
State Superior Courts	Original	—	—	Original

(a) Indigent inmates--original and In Forma Pauperis affidavit.

(b) Indigent inmates--original and four copies.

Paper size for all courts is 8 1/2" x 11."

14010.22 Notarization of Legal Documents

Each Warden shall identify and designate a Notary Public Coordinator, have an adequate number of commissioned notaries public to accommodate inmate requests, and designate a secured storage area for supplemental identification cards. Upon request from an employee, an inmate, or an inmate's attorney, notary service shall be provided upon payment of established notary fees.

Documents requiring notarization may be notarized only upon the inmate's payment of the established notary fee. Inmates who request notarization of court documents, but who cannot pay the established fee, shall be advised that the courts permit an alternative to notarization. Under CCP 2015.5 and Title 28, U.S. Code (USC) 1746 (cited as 28 USC 1746), documents can be filed with a declaration under penalty of perjury.

Notary services shall be provided as expeditiously as possible, consistent with security and other operational needs.

An employee acting as a notary shall not read a document to witness the signature other than to ascertain the title or description of the document for the notary's record book and to ensure the person whose signature is being witnessed signs it in front of the notary.

14010.22.1 Identification of Persons

An employee acting as a notary may only acknowledge an instrument in accordance with the current Notary Public Handbook published by the Secretary of State.

Satisfactory evidence for incarcerated inmates shall be a supplemental inmate identification card as described below.

Supplemental inmate identification cards will include the inmate's full name, physical description (height, weight, hair, eyes, date of birth, and gender), the inmate's photograph, the inmate's signature, the inmate's CDC number, and contain the following heading: "California Department of Corrections and Rehabilitation (CDCR), Temporary Supplemental Identification (ID) Card for Notary Purposes Only." These cards are used for the sole purpose of identifying inmates for notary services and will not be given to the inmate at any time for any reason.

Each institution shall develop and maintain a DOM Supplement in accordance with Civil Code Section 1185, DOM Chapter 1, Article 18, Legal Matters, and DOM Chapter 1, Article 6, Policy Directives.

14010.23 Legal Information for Parole Agents

DOM 80000, contains additional information governing how the DAPO staff handles legal matters unique to that division.

14010.24 Education of Professionals from the Judicial System

Professionals of the judicial system shall be kept informed about programs and services available to inmates within the Department. This can be accomplished by:

- The Department's participation in the annual Superior Court Criminal Law Institute.
- Participation in programs presented by the California Center for Judicial Education and Research.
- The Secretary's Annual Report to municipal and superior courts.
- Acquainting professionals in the criminal justice and judicial system regarding the programs and services available to persons committed to the Department as civil narcotic addicts as an alternative to commitment as a felon.

In accordance with the provisions of DOM 13020, Wardens may invite professionals of the judicial system into facilities to observe operations and activities and gain first-hand, up-to-date knowledge about the programs and services available to inmates.

14010.25 Revisions

The Assistant Secretary, OLA, or designee shall be responsible for ensuring that the contents of this section are kept current and accurate.

14010.26 References

CC §§ 1185 and 1798, et seq.

CCP §§ 415 et seq., and 2015.5.

EC §§ 1043 and 1046.

GC §§ 3300, et seq.

PC §§ 832.7, 832.8, 1170(d), 1203.03, 1328, and 1328.5.

18 USC 1746.

CCR (15) (3) §§ 3160, 3162, 3165(c), 3165(d), and 3413(a)(10).

DOM §§ 12010, 13020, and 13040.